

CITY COUNCIL CONFERENCE MINUTES

August 25, 2009

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in conference at 5:20 p.m. in the Municipal Building Conference Room on the 25th day of August, 2009, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray, and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Butler,
Cubberley, Dillingham, Ezzell, Griffith,
Kovach, Quinn, Mayor Rosenthal

ABSENT: None

DISCUSSION REGARDING A REQUEST FROM THE NORMAN LAND CONSERVANCY DISTRICT TO PURCHASE A CONSERVATION EASEMENT.

Ms. Susan Connors, Director of Planning and Community Development, provided background information from the NORMAN 2025 Land Use Plan and Transportation Plan (NORMAN 2025 Plan) related to designated areas for preservation/inclusion in a greenway system and the policy of using greenbelts to protect environmentally sensitive lands that are generally the least suitable for development, especially in flood-prone areas. She said a conservation easement restricts the use of land, eliminate development rights for the property, and assures the land will be used for farming or agricultural use or will remain in its natural state.

Ms. Connors said the Norman Area Land Conservancy (NALC) was formed in 2000 as a 501(c)(3) non-profit corporation for the purpose of preserving open spaces in Norman. She said NALC used a combination of City funds and grant funds to acquire a conservation easement for over 107 acres of the Kuhlman farm in 2002. She said NALC received three grants in 2005 totaling \$570,250 for additional acquisition of conservation easements.

Ms. Connors said the current proposal submitted by NALC is to acquire a conservation easement for 50 acres located south of Highway 9 and west of Chautauqua Avenue, which is identified as flood plain in the NORMAN 2025 Plan and zoned R-1, Single Family Dwelling District. She said the appraised value of the property is \$295,000 or \$6,000 per acre. She said Federal grant funds are available for 50% of the appraised value with 50% local match and NALC has requested the City provide the 50% local match in the amount of \$147,500. The deadline to receive Federal funds expires at the end of September, 2009.

Councilmember Cubberley asked if the appraisal was a broad brush over the entire parcel or was each acre appraised at true value. Ms. Lynne Miller, NALC Board Member, said the property was appraised by one of the only two people certified in the state of Oklahoma to appraise conservation easements and each acres was looked at individually. She said some of the acres appraised as high as \$18,000 per acre.

Councilmember Ezzell asked what the likelihood of the property developing was if the conservation easement was not purchased and asked how many acres were located in the flood plain. Mr. Patrick Copeland, Development Services Manager, said there are approximately 45 developable acres and Ms. Connors said there are areas within the tract that are located in the flood plain which could be raised for development, but not the areas in the floodway.

Councilmember Kovach felt it was a good use of public funds because it protects the greenbelt in an area the City does not want to see development and the neighbors in the area are supportive of the purchase. Mayor Rosenthal said this item is scheduled to be considered in Council's meeting of September 8, 2009.

Items submitted for the record

1. PowerPoint presentation entitled, *"Funding Request for Conservation Easement"* City Council Conference, August 25, 2009
2. Memorandum dated August 19, 2009, from Susan Connors, Director of Planning and Community Development, to Honorable Mayor and Councilmembers
3. Location map

DISCUSSION REGARDING THE TECUMSEH ROAD PROJECT RECOUPMENT PROJECTS
(TOTAL PROJECT PARAMETERS – TECUMSEH ROAD FROM 60TH AVENUE N.W. TO 12TH AVENUE N.E. AND 60TH AVENUE N.W. FROM TECUMSEH ROAD TO INDIAN HILLS ROAD)

Mr. Shawn O'Leary, Director of Public Works, provided an overview of the Tecumseh Road Widening Project history; the Tecumseh Road Recoupment Districts; summary of costs; the current status of the recoupment projects; an overview of the City's Recoupment Ordinance including questions raised by property owners; and City options.

Mr. O'Leary highlighted the history of the Tecumseh Road Widening Project and said in 1992 the project was proposed to cost \$16.5 million; however, after 25 years, the project cost totals \$31,206,226. He said funding for the project came from multiple sources, i.e., the Oklahoma Department of Transportation-\$26,509,000; City of Norman-\$4,064,226 broken down as General Obligation (GO) Bonds-\$1,398,787, Recoupment Funds-\$1,360,494, paygo funds-\$469,945, and other funds-\$835,000; and Cleveland County-\$633,000. The total recoupable amount is \$677,121 of which \$94,570 has been collected to date.

The Tecumseh Road Widening Project was constructed in phases – Phase I, 60th Avenue N.W. to I-35 - \$5,923,797; Phase II (not yet complete), 60th Avenue N.W. from Tecumseh Road to Indian Hills Road - \$8,829,465; Phase IIIA, Highway 77 to MacDonnell Drive - \$5,488,598; Phase IIIB, MacDonnell Drive to 12th Avenue N.W. - \$1,426,000; and Phase IIIC, 12th Avenue N.W. to 12th Avenue N.E. - \$8,057,351. He said Council chose not to establish a recoupment district for parts of Phase I and Phase II because the likelihood of that property developing in the next 20 years is very slim due to their location in the flood plain. He said Council declared Phase I a recoupment district in June 1997, and adopted final costs for Phase I in January 2001. Council declared Phases IIIA and IIIB as recoupment projects in January 2002. Phase IIIA (Highway 77 to MacDonnell) was completed in April 2002 and Phase IIIB (MacDonnell to 12th Avenue N.W.) was completed in February 2003. Council adopted final costs for Phase IIIA in December 2004. Phase IIIC (12th Avenue N.W. to 12th Avenue N.E.) was completed in June 2009 and Phase II (60th Avenue N.W./Tecumseh Road to Indian Hills Road) is proposed to begin in November 2011.

Mr. O'Leary said final costs for the recoupment project for Phase IIIC was submitted on Council's agenda on April 28, 2009, at which time affected property owners questioned the cost distribution. The item was postponed to allow staff additional time to verify the final costs. He said since that time, staff resolved the cost distribution issues and discovered final costs for Phase IIIB had not been completed. He said in the process of preparing the documents for final costs on Phase IIIB, staff began exploring other policy and procedural issues.

Mr. O'Leary provided background information regarding Council's adoption of the Recoupment Ordinance and said recoupment fees are collected only if property is platted and developed after the recoupment resolution is adopted by Council. Recoupment fees are reduced by 20% per year beginning the 16th year and after 20 years, the fees are cancelled.

Mr. O'Leary said some of the property owners questioned whether bond funds were equitably distributed and Mr. Jeff Bryant, City Attorney, said although the bond funds were not distributed over the entire project, they were legally spent as required by statute for GO bonds. Property owners also questioned

whether bond funding or other funding precludes recoupment funding. Councilmember Ezzell said the ordinance states any items paid for by GO bonds or funds from any other governmental entities, which are not subject to repayment by the City of Norman shall be deducted in determining the total improvement costs, excluding right-of-way costs. He went on to say the ballot language included in the 1992 GO Bond Election said the funds were to be used for utility relocations and as a result, questioned whether the City should be recouping any funds from this project. He also referenced a prior memorandum from staff stating the expenses were not eligible for recoupment. Mr. Bryant said the Recoupment Ordinance was established to fill a funding gap in order that the City may recoup costs associated with construction of streets normally required of developers when properties are developed. He said the ordinance allows the City to recoup those costs if and when the property is platted. He said if projects have other funding sources the only amount that may be considered for recoupment is that which is left after other revenue sources are deducted and complies with eligible expenses outlined in the ordinance.

Mr. O'Leary said staff has proposed three options for Council's consideration. He said Council may choose to cancel the Tecumseh Road Recoupment Districts, distribute the bond funds equitably to all phases of the project, or adopt final recoupment resolutions for Phases IIIB and IIIC. He said Options One and Two address the concerns of objecting property owners, but each have adverse impacts to the recoupment ordinance process. He said staff is also concerned the first two options may set a precedent for other recoupment districts, create inequities in other City funding sources, and the refunding process for properties who have already paid would be very complex. He said Option 3 complies with the current City Recoupment Ordinance and provides a potential to replenish the Recoupment Fund; however, it does not address concerns of objecting property owners and the recoupment ordinance may be legally challenged.

Councilmembers questioned how implementing Option 1 or 2 would affect other recoupment districts and felt the Recoupment Ordinance needed to be reviewed to clarify the language. Several Councilmembers said they would not be supportive of Option 3. Mayor Rosenthal asked staff to determine the budgetary and policy impact of Options 1 and 2 and bring back to a future study session and felt any flaws in the existing ordinance should be corrected.

Items submitted for the record

1. PowerPoint presentation entitled, "*Tecumseh Road Project (U.S. Highway 77) Recoupment Districts*" City Council Conference, August 25, 2009, presented by Shawn O'Leary, Director of Public Works; Jeff Bryant, City Attorney; and Anthony Francisco, Director of Finance

The meeting adjourned at 6:15 p.m.

ATTEST:

City Clerk

Mayor